REMARKS

I.   Summary

Applicant thanks Examiner Akintola for the thorough examination and for the comments provided in the Advisory Action mailed November 13, 2008. To recap, the Final Office Action mailed September 2, 2008 ("Office Action"), set forth the following rejections:

- Claims 1-8, 10, 11, 22-27, 29, and 30 were rejected under 35 U.S.C. § 103 as unpatentable over U.S. Patent Application Publ. 2002/0116205 by Ankireddipally, *et al.* ("Ankireddipally") in view of U.S. Patent 5,963,923 to Garber ("Garber").

- Claim 9 was rejected under 35 U.S.C. § 103 as obvious over Ankireddipally in view of Garber in further view of U.S. Patent Application Publ. 2003/0126068 by Hauk, *et al.*

- Claim 28 was rejected under 35 U.S.C. § 103 as unpatentable over Ankireddipally in view of Garber in further view of U.S. Patent 6,519,574 to Wilton, *et al.*

Applicant submits that the cited art does not disclose the features of the pending claims for at least the following reasons:

II.   Interview Request

Pursuant to MPEP § 706.07(b), Applicants hereby request an interview with the Examiner prior to examination of the claims in the present Submission. The Examiner is invited to contact Applicants' representative Joseph Flerlage at 312-698-6065 to schedule the interview at a time convenient for the Examiner prior to the examination of the claims.

III.   Related Applications

Applicant understands that the Examiner reviews the claims and prosecution history of related applications as they contain common subject matter. For the purposes of the present application, Applicant hereby rescinds any disclaimer of claim scope that may have been (or may be) made during the prosecution of any related application. Applicant also respectfully requests examination of each claim in the present application according to the language of the claim, and prior art as set forth in the MPEP, and not importing statements made by the Applicant in the prosecution of any related application.

IV.   Rejection Under 35 U.S.C. § 103

Independent Claims 1 and 22

Claims 1 and 22 generally relate to sending a trade on behalf of the trader from one electronic exchange to another. In the claims, a message received from a trader at a first electronic exchange includes the trader's order for a quantity of a tradeable object at a first price and a market event request. The market event request includes a condition and a predetermined action to be taken on behalf of the trader. The electronic exchange detects the condition, and in response, sends an order on behalf of the trader to another electronic exchange for a second tradeable object. Both the first and second tradeable objects and the tradeable objects traded at both exchanges are different. Also, the electronic exchanges have a computerized matching process for matching others orders.

The Office Action cites Ankireddipally and Garber as disclosing features of the claims. Ankireddipally discloses manages transactions processing and message flow, (Abstract), and is cited as disclosing sending orders from a first electronic market to a second on behalf of a trader. The Office Action acknowledges that Ankireddipally does not disclose or suggest that the electronic markets each include a computerized matching process that automatically match orders from remote client devices. *See* Office Action, p. 3. Instead, the Office Action refers to Garber as disclosing first and second markets having computerized matching processes for matching orders from remote client devices. Applicant submits that Ankireddipally and Garber do not disclose the subject matter of the claims.

Ankireddipally discloses a commerce exchange server that produces messages needed to perform a transaction and manages message flow to and from service application without user intervention. (par. [0012]). The disclosure of Ankireddipally is silent with regards to electronic exchanges having a matching process, orders sent to an exchange and taking action on behalf of a trader. Instead, Ankireddipally simply relates to transaction sharing between network-distributed software applications (par.[0002]) and not to electronic trading. Accordingly, as noted in the Office Action, absent in Ankireddipally is the feature of an electronic market having a matching process that takes action on behalf of a trader by sending an order for a different tradeable object to another electronic exchange having an electronic matching process as in the claims.

In Garber, a rolling spot currency contract is linked with a Principal Market Maker ("PMM") program by merging a combined trader/broker with a traditional futures pit trading

environment. (Abstract; col. 3, ll. 45-50). The PMM system is coupled to electronic trading systems, such as electronic exchanges, to transfer risk to various other traders. (col. 6, ll. 12-16). Figure 1 shows a PMM/Rolling Spot Currency System having a PMM computer 12 linked with a Rolling Spot Currency Computer 10. The PMM computer 12 is also coupled with electronic trading systems 16 (Project A), 18 (Globex), 20 (Reuters), 22 (Electronic Brokerage System ("EBS")), 24 (Minex), which are all well known electronic exchanges for receiving and matching orders for futures and options on behalf of traders. (col. 6, ll. 1-5). Thus, Garber clarifies that the PMM is not an electronic exchange including the matching processes of electronic exchanges.

Figure 2 shows more detail of the PMM/Rolling Spot Currency system in which a PMM/Rolling Spot Futures computer 33 transfers risk to a PMM/Rolling Spot Options computer 35. (*see also* col. 6, ll. 12-16; col. 6, ll. 28-31). A bidirectional communication between the PMM computers facilitates intermarket trading to manage risks that result for a position that the PMM has taken in a trade in either market. (col. 4, ll. 4-8). In particular, the PMM/Rolling Spot Futures computer 33 counters risk associated with a future with a reciprocal transaction for options from the PMM/Rolling Spot Options computer 35 to neutralize the PMM's inventory risk. The PMM/Rolling Spot Options computer 35 transfers the risk, or disperses the risk among multiple traders, with an appropriate transaction with within the options trading crowd through terminals 32, 34, 36. (col. 6, ll. 48-57; col. 7, ll. 13-20). Similarly, the PMM/Rolling Spot Options computer 35 transfers risk where the PMM/Rolling Spot Futures computer 33 makes appropriate transactions with spot futures 28 and currency futures traders 40. (col. 7, ll. 1-7).

Garber explains that the PMM system is used by a bank to **hedge its own inventory**. (col. 7, ll. 24-26). An order is **executed against the bank's own inventory** or placed in the bank's inventory in a queue. (col. 7, ll. 9-13; col. 7, ll. 24-26; col. 8, ll. 21-24, col. 8, ll. 35-39). More particularly, the PMM **transfers the bank's risk** for inventory orders it (has to) purchases, (col. 7, ll. 8-11) or to hedge against risks associated with the bank's own inventory. (col. 7, ll. 25-27). If an inventory order is executed against the PMM Futures computer 33, the corresponding currency is added or subtracted from the bank's currency and the PMM/Rolling Spot Options computer 35 transfers the bank's risk. (col. 8, ll. 42-47). Then, the PMM/Rolling Spot Options computer 35 executes the trade out of its inventory or places the order in its inventory. (col. 8, ll. 48-54). When the PMM/Rolling Spot Options computer 35 executes the order, the PMM inventory is updated

and the risk transferred to the trading crowd. Therefore, when the bank incurs risk (*i.e.*, the PMM system executes an order out of its own inventory), the risk PMM system transfers the risk within the PMM system to the PMM/Rolling Spot Options computer 35 or by sending an order to the trading crowd. Thus, the PMM system is separate from the electronic exchanges and sends orders to the markets only to **transfer the bank's own risk** and not on behalf of another, such as a trader.

The Ankireddipally/Garber system, therefore, is a commerce exchange server system that produces messages needed to perform a transaction and manages message flow to and from service application without user intervention (Garber) where the user or bank may transfer its own risk associated with a position it has taken, by submitting an order to another. Since Garber already disclosed that an order may be sent to transfer risk, Ankireddipally does not add to Garber.

Applicant submits that Ankireddipally and Garber do not disclose or suggest at least:

- receiving from a trader a first order message having an order at a first electronic exchange for a quantity of a first tradeable object at a first price and a market event request,

- detecting the condition at the first electronic exchange,

- in response to detecting the change, sending a second order on behalf of trader from first electronic exchange to second electronic exchange,

- the action of sending the order is taken on behalf of the trader by the first electronic exchange using a microprocessor executing one or more instructions.

First, Applicant notes that the cited art does not disclose or suggest an order having a quantity of a tradeable object at a first price and a market event request. That is, nothing in Garber discloses that an order sent to or received by the PMM/Rolling Spot Currency System includes a market event request. Moreover, nothing in Ankireddipally discloses or suggests sending an order having a market event request, or that Garber could be modified to receive or send a market event request. According, the feature of "receiving from a trader a first order message having an order at a first electronic exchange for a quantity of a first tradeable object at a first price and a market event request" is entirely missing in the cited art.

Second, nothing in Garber or Ankireddipally discloses or suggests that a condition of the market event request may be detected at an electronic exchange. As discussed, nothing in the art discloses or suggests the market event request, and therefore, nothing in the art discloses or

suggests detecting a condition of the market event request at an electronic exchange. Moreover, as discussed, Garber relates to a PMM system, which as described by Garber is not an electronic exchange, but rather a separate and distinct system to act on the bank's own behalf. Nothing in Garber discloses or suggests that the electronic exchanges disclosed in Garber can be modified to perform or operate as the PMM system of Garber. Indeed, the entire specification describes the operation of the PMM system without suggesting that the electronic exchange can be modified. In addition, nothing in Ankireddipally discloses that the PMM of Garber or the electronic exchange discussed in Garber can be modified to detect a condition of a market event request. Accordingly, Ankireddipally and Garber do not disclose or suggest the feature of "detecting the condition [of the market event request] at the first electronic exchange" is missing from the cited art.

Next, Applicant submits that the cited art does not disclose or suggest sending an order on behalf of the trader by the first electronic exchange to a second electronic exchange. As discussed, the PMM computers in Garber are not electronic exchanges as included in the claims. More particularly, in Garber, there is no electronic exchange having a matching process that takes action on behalf of a trader by sending an order for the trader for a different tradeable object to another electronic exchange having an electronic matching process. Although a transmission occurs between PMM's and between a PMM and the trading crowd, the PMM computers in Garber do not include a matching process as included in the claims. The PMM simply do not match bids and offers as included in the claims. Even though Applicant asserts that the PMMs of Garber are not electronic exchanges having a match process, to the extent that the PMMs are considered to have a matching process, the PMMs only take action for itself, not on behalf of a trader (*i.e.* transfer its own risk). Moreover, to the extent that an order is sent from a PMM to an exchange it is sent to the trading crowd or the trading pits (col. 7, ll. 42-44; col. 8, ll. 58-61). Accordingly, features of the claims are entirely missing from Garber.

When Garber is combined with Ankireddipally, the feature of sending an order on behalf of the trader by the first electronic exchange to a second electronic exchange is still missing. As noted in the Office Action, nothing in Ankireddipally discloses or suggests sending an order from an electronic exchange to another electronic exchange on behalf of a trader. The transaction distribution of Ankireddipally in combination with Garber would simply allow the PMMs of Garber to transfer risks within the PMM system on behalf of the bank. Indeed, since the electronic

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exchanges are mentioned in Garber as separate and distinct from the Garber PMM system, Garber teaches away from disclosing that the electronic exchanges can be modified with the Garber and/or Ankireddipally system. Indeed, nothing in the combination discloses or suggest that an electronic exchange can be modified or that Garber can be modified as an electronic exchange as in the claims. To the extent that orders are sent in the Garber/Ankireddipally system, it is done on its own behalf and not on the behalf of another. Even if the PMM systems in Garber are combined with Ankireddipally, the electronic exchanges of the claims are missing.

Applicant also respectfully submits that claims 1 and 22 are not a predictable use of prior art elements according to their established functions. In particular, the prior art does not disclose or suggest a market having taking action on behalf of a trader as included in the claims. Since the cited art does not disclose the features of the claims, much less their established functions, the cited art cannot be combined to render the claims obvious. Accordingly, Applicant respectfully requests removal of the rejection and earnestly solicits allowance.

Dependent Claims

The dependent claims are also allowable for at least the reason that they depend from an allowable claim, as well as for the additional features recited. Withdrawal of the rejection of the dependent claims is requested.

V. Conclusion

In view of the foregoing, Applicants respectfully submits that the claimed invention is not disclosed or suggested by the cited art. Favorable consideration and withdrawal of the rejections are respectfully requested. Again, the Examiner is invited to contact Applicant's representative Joseph Flerlage at (312) 698-6065 to schedule the interview prior to examination of the application or to otherwise expedite consideration of the application.

Respectfully submitted,

Dated: <u>November 26, 2008</u>   By: <u>/Thomas J. Loos/</u>
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